



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

Certified Mail No. 7008 3230 0000 3862 9403
Return Receipt Requested

October 19, 2011

Matthew S. Scroggins
Senior Water Resource Control Engineer
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

Re: Tentative Order/Draft NPDES Permit for Atwater Regional WWTP (NPDES Permit No. CA0085308)

Dear Mr. Scroggins:

Thank you for the opportunity to review and comment on the tentative order/draft permit (NPDES Permit No. CA0085308) for the discharge from the Atwater Regional WWTP to the Peck/Atwater Drain, which was public noticed on September 21, 2011. We have concerns about the draft permit that need to be addressed to ensure the permit effectively protects water quality and complies with NPDES requirements. Specifically, we are concerned that applicable wasteload allocations have not been included in the permit. Pursuant to 40 CFR 123.44, we reserve the right to object to issuance of this permit if our concerns are not addressed.

It appears that the TMDL wasteload allocations (WLAs) for chlorpyrifos and diazinon for the Lower San Joaquin River are applicable to this discharge, and thus, must be included in the permit as water quality-based effluent limitations. The Fact Sheet states that the Peck/Atwater Drain is connected to the San Joaquin River. The Fact Sheet also states that the permit includes monitoring for chlorpyrifos and diazinon to determine if the discharge is in compliance with the WLAs from the TMDL, which is included in the Basin Plan and applicable to all NPDES dischargers.

40 CFR 122.44(d)(1)(vii)(B) requires effluent limits to be developed consistent with any available wasteload allocations developed and approved for the discharge. In the 1989 preamble to this regulation, EPA stated: "Today's language clarifies EPA's existing regulations by stating that when WLAs are available, they must be used to translate water quality standards into NPDES permit limits." 54 Fed. Reg. 23868, 23879 (June 2, 1989). Monitoring requirements are not an adequate substitute for this requirement. If the WLAs

for chlorpyrifos and diazinon are applicable to the discharger, the permit must include water quality-based effluent limitations consistent with the WLAs.

We appreciate the opportunity to provide input on the draft permit. If you would like to discuss these comments, please contact Elizabeth Sablad of my staff at (415) 972-3044.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Smith". The signature is fluid and cursive, with the first name "David" and last name "Smith" clearly distinguishable.

David Smith, Manager
NPDES Permits Office (WTR-5)